19

Department of

OFFICE

STATION

No. 166

Dated 4

DESPATCHED
23 JAN 1940

Pages in the file

(SUBJECT.)

C.F. 32.

In reply, please quote number, date and short title.*

OFFICE OF THE BOARD OF REVENUE
3 - JAN 1940
MADRAS

Revenue DEPARTMENT.

Received 3-JAN 1940 Registered

From (Name) C. Cromelie Esquire., C.I.E.,I.C.S.,

(Designation) Collector,

Post Box ____, (Station) Bellary.,

Telegraphic Address ____

To

The Secretary to the Board of Revenue,
Madras.

Ref. *No.* 3214/38 A1, *dated* 31st December 1939

Sir,

Suits - Bellary District Munsiff's Court O.S.No. 190/38 - encroachment in Bellary Municipality - Plaintiff Sri.R. Sabhapathi Rao

ENCLOSURES ____.

Ref:- B.P. Mis. No. 2746 dated 28-9-39.

SPARE COPIES ____.

The Board approved the draft written statement submitted with this office Ref.C.No. 3214/38 A.1, dated 15-7-39 and sanctioned the defence of the suit in its B.P. Mis. 2746, dated 28-9-39. When the suit came up for trial, the plaintiff with the consent of the Government Pleader took an adjournment and requested me to inspect the site in dispute so as to enaole him to compromise the suit with the Government.

A brief history of the case as already reported is as follows:-

The two houses of the plaintiff bearing Municipal Numbers 17 and 18 of Ward No. II in Goldsmith street in the Bellary Municipality hase an open pial in front adjoining the side drains and on the first floor there is a balcony and over the roof of the first floor, a zinc sheet sun-shade projecting beyond the limits of the open pials into the drains. These were treated as encroachments by the Municipality, which later on was about to compromise on a suit filed by the squatter for a permanent injunction against it not to remove or interfere with the said encroachments. As this is a case in which the interests of the puolic were involved and the ownership of

of the Government was in question sanction was not accorded to the Municipality to effect a compromise and actionw, was taken to book them under the Land Encroachment Act. Government were therefore included as a necessary party to the suit. I inspected the site in question at the request of the plaintiff in the presence of the Municipal Commissioner on 10-12-39. The whole position is changed as the Municipality has recently laid concrete drains. The pillars supporting the pials no longer interfere with the drain. A sketch showing the present position of the encroachment is enclosed. I see no objection to the assignment of the site covered by the pial to the plaintiff. The plaintiff has signed the petition of compromise drafted by the Government Pleader in consultation with the Municipal Commissioner and has agreed to abide by the terms mentioned in it and to pay the costs of the suit to the Government A copy of it is enclosed. The market value proposed is reported to be in accordance with the prevailing market rate in the locality for such narrow strips of land. As the ownership of the Government is recognised over the site in question, and the terms of compromise are reasonable, I requestx that the Board may p be pleaded to approve the compromise petition for being filed in the Court on 30th January 194(to which date the case stands adjourned.

Sketch ⅄ 5 ℄.

⅄ 3 ℄.

31.12.38

For Collector.

K/31-12

Re 31/12

3

In the Court of the District Munsif, Bellary

O.S. No. 190 of 1938

Between:-

R. Sabhapathy Rao — Plaintiff

and

The Bellary Municipal Council represented by its Commissioner

The Provincial Government of Madras, represented by the District Collector, Bellary.

Defendants.

Memo filed on behlaf of Plaintiff and defendants.

As a result of a local inspection of the site in dispute by the District Collector, and the Municipal Commissioner Bellary on 10-12-1939, the following terms for the settlement of the suit are proposed, subject to the approval of the ~~X~~ The Board of Revenue:-

Sketch at 5 c/

(1) That the portion of the land on the ground in front of the Plaintiff's houses which has been treated as an encroachment by the Town Survey, namely a length of 53 feet 3 inches ~~East~~ to West by 1 foot 9 inches at its eastern end, and 9" at the western end, be assigned to the plaintiff at a rate not exceeding Rs.2/- per square yard;

(2) That in regard to the Zinc sheet projection of the roof of the 2nd floor of plaintiff's houses, the plaintiff should obtain a Municipal ~~Licence~~ Licence for ~~the~~ the extent it projects beyond the land to be assigned under (1) above, till such time as the plaintiff may find convenient to remove it;

(3) That the 1st Defendant's costs of the suit do abide the decision of the Court and the plaintiff to pay 2nd Defendant's costs.

(True copy)

31.12.39

For Collector.

Rb.
- 3.1.40

R.F. XXII-26.

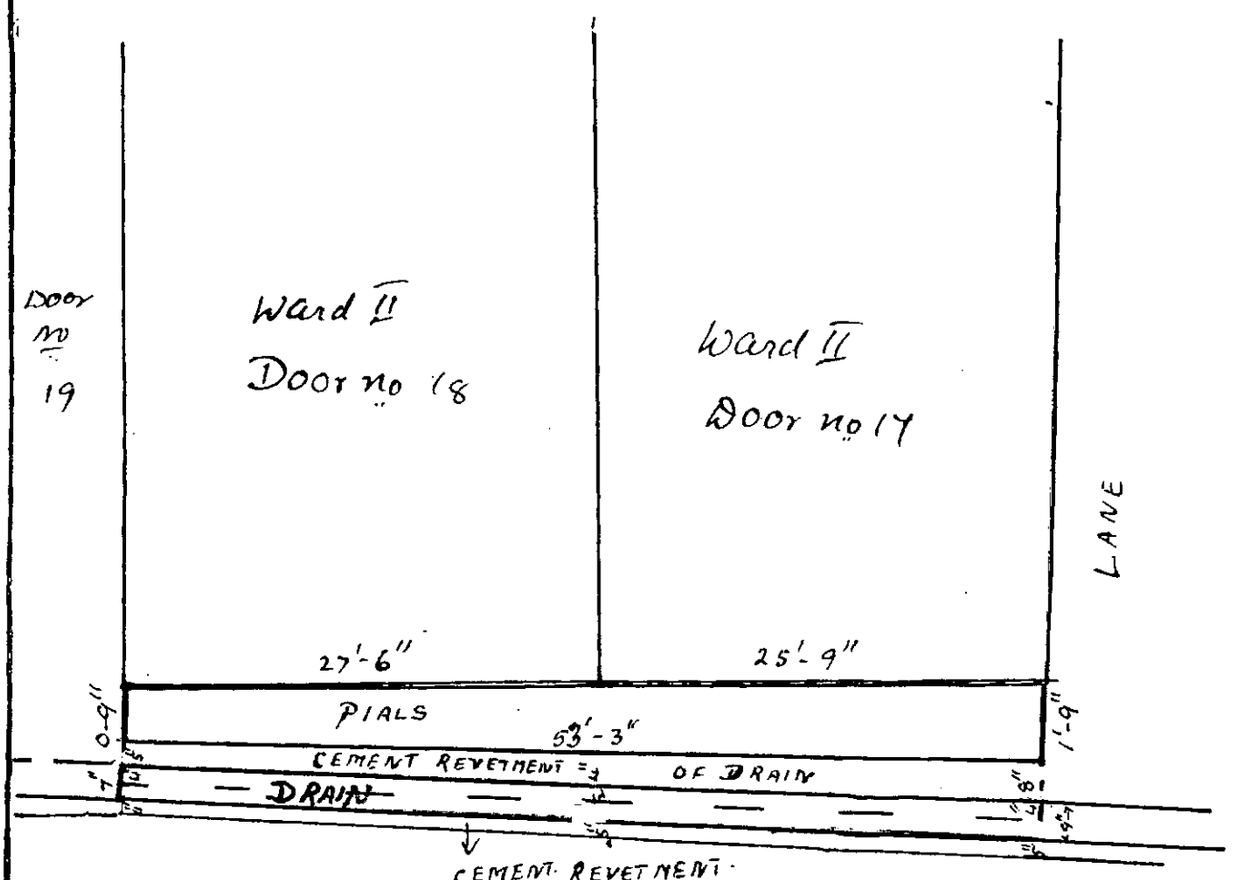
5

District Bellary

Taluk Bellary

Village { No. 68 / Name Bellary

Field No. 499-1 (part-) Area 15.57 4d2 Acres.



GOLD SMITH STREET.

REFERENCE

Zinc Sheet Shade.

31.

for Collector

RB 31/1-

Scale inch = One Chain.

10.12.35

S. V. R

C.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..	11.0	
When copied ..		
When examined..		
When signed ..		
When despatched.		

SUBJECT :—

Suits - (Bellary) — Bellary Dr Municipality - Osms 190/38 — Bellary Town - Encroachments - Compromise - Sanctioned.

READ AGAIN _____, dated _____ 19____.

" " _____ " _____ 19____.

READ *ALSO* :—

A No. 80/40 From the Coll of Bellary, No. 3214/38, dated 31/12/39. p 1-2y

" _____ " _____ " _____ " _____ 19____.

" _____ " _____ " _____ " _____ 19____.

~~Order~~ Resolution ~~Memo~~ Ms. No. 166, dated 18.1.40 19____.

The Board approves the Colrs proposal to Compromise the suit on the terms recommended by him

To the Coll of Bellary

4/30-1-4

Note Sheet

Suits - (Bellary) - Bellary Municipality
Case 190/38 - Bellary Town -
Encroachment - Compromise
proposals -

M2

AS(LR)

A 80/340 from the Coll of Bellary
3214/38 dated 31/12/39 4/1-2 cf

To AS(LR)

4/1 cf

The plaintiff owns two houses bearing door nos 17 and 18 of ward II in Goldsmith street in Bellary Town These two houses have an open pial in front, adjoining the side drain and on the first floor there is a balcony and over the roof of the first floor zinc sheet sun-shade projecting beyond the limits of the open pials into the drain The Municipality treated all these as encroachments and issued notices to the plaintiff for their removal The plaintiff then filed a suit for a permanent injunction restraining the Municipality from interfering with the encroachments. The Municipality wanted to compromise the suit but the Coll seeing that the public interests were involved did not approve the proposal

The RDO was asked to take eviction proceedings against the plaintiff, so that he might be driven to file the suit against the Municipality and the Govt. A copy of the plaint is at pp 9-12 of BP Mis 2/46 dated 28/9/39, in which the defence of the suit was sanctioned. p 4 (A) (P) p 19-20 (P)

The Collr now reports that he personally inspected the suit site on 10-12-39 and the whole position is changed as the Municipality has recently laid concrete drains, and the pillars supporting the pials no longer interfere with the drain. He recommends that the site covered by the pial may be assigned to the plaintiff on payment of market value, and the costs of the suit to the Govt. A Copy of the Compromise petition is at p 3 of. As the ownership of the site by the Govt is recognised by the plaintiff and as he pays the market value of the land, and the costs of the suit the Collr's proposal to assign the site to the plaintiff may be approved and the compromise proposed sanctioned. p 2 of Sketch p 5 of p 2 of p 3 of

According to the compromise, the costs of the suit p 3 of

12/1/40 dept. wg Hyd Council, are to abide the decision

of the Court. While the costs of the Court (2nd sept.) are to be paid by the plaintiff this is repeated by the Court. Both the petition for compromise was drafted by the Govt. Pleader in consultation with the Municipal commissioner. It may therefore be assumed that the position as regards costs to the Municipality, entered in the Compromise is/has been accepted by it.

The proposal to compromise the suit may be approved the compromise petition may be accepted, if it is not considered necessary to ask the Collector, whether the Municipality has agreed to the terms.

16.1

SRR 16

SECY.
18 JAN 1940

A(LR)

10 As (LR)

Draft submitted

17/1

17/1

17/1

10 2

M. 166

Dated 18/1/60

~~Full Board~~ M2 S.VOR

I.A.	A.D.S. and L.R.	Assistant Secretary. Land Rev.	Settle- ment.	Sep. Rev.	Jt. Secy	Secy.	M-4.	M-3	M-2	M-1

1. Open file seen by ✓
2. Final draft seen by ✓
3. Now circulated to
4 Initials.

Passed for record.

Secretary
Joint Secretary.
~~A.S. (C.W.)~~
A.S. (L.R.) 18/1
~~A.S. (Sett).~~ 18/1
A.S. (Excise) 18/1/2
A.D.S. & L.R.
I.A.

Note:- Entries not required to be scored out.